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tice stated the correct measure of damages or not, since the extent of recovery was to be fixed by evidence.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 128.]

3. Judgment (§ 184*)—On Motion—Notice—Carriage of Goods—Delay in Transportation.—In proceedings by shipper by notice of motion for judgment against a railroad company for damages, where the notice does not show whether any bill of lading was ever issued or not, although the Carmack Amendment (U. S. Comp. St. §§ 8604a, 8604aa) required one, but it appears that consignor was also consignee, and, presumably never parted with his title to goods, the statement that they had been sold, taken in conjunction with other allegations of the notice, was no evidence that plaintiff had parted with his title, even if that could affect his right to maintain the action for damages for failure to transport with reasonable dispatch.

Error to Circuit Court, Northampton County.

Proceeding by J. W. Chandler against the Baltimore, Chesapeake & Atlantic Railway Company. Demurrer to notice for judgment sustained and plaintiff assigns error. Reversed.

Mapp & Mapp, of Accomac, for plaintiff in error.

Stewart K. Pozwell, of Onancock, and *George R. Allen*, of Philadelphia, Pa., for defendant in error.

BROOKS *v.* CLINTSMAN.

[100 S. E. 394.]

Gifts (§ 25*)—Parol Gifts of Land Not Enforceable.—The history and express purpose of Code 1904, § 2413, providing that no estate in lands for a term of more than five years shall be conveyed unless by deed or will, discloses a legislative policy to deny the right to enforce parol gifts of such estates.

[Ed. Note.—For other cases, see 6 Va.-W. Va. Enc. Dig. 717; 17 Va.-W. Va. Enc. Dig. 457.]

On petition for rehearing. Petition denied, and former determination upheld.

For former opinion, see 98 S. E. 742.

BLIZZARD et al. *v.* SALYER et al.

Sept. 17, 1919.

[100 S. E. 454.]

1. Vendor and Purchaser (§ 220*)—Unrecorded Conveyance Ineffective against Bona Fide Purchaser.—To be protected by Code 1904,

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

§ 2465, against a prior unrecorded deed, one must have been a complete purchaser for valuable consideration without notice of such prior unrecorded deed.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 600.]

2. Vendor and Purchaser (§ 240*)—Subsequent Purchaser in Action by Grantee in Unrecorded Deed Must Plead Bona Fide Purchase.—In an action by a grantee, who failed to record his deed under Code 1904, § 2465, to set aside a subsequent transfer by the grantor, the subsequent purchaser, if entitled to the protection of such statute, must affirmatively plead and set up such defense.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 602.]

3. Vendor and Purchaser (§ 240*)—Subsequent Purchaser Must Plead Ignorance of Prior Unrecorded Transfer Though an Infant.—The rule that a purchaser of land, to protect himself under the registry statute (Code 1904, § 2465) from prior unrecorded deed, in an action by the prior grantee to set aside the transfer to him, must affirmatively plead and prove that he was a purchaser without notice, etc., applies to infants who seek under section 3424 to show cause against a decree setting aside a transfer to them.

4. Vendor and Purchaser (§ 240*)—Pleading Insufficient as Defense of Purchasers for Value.—An allegation in a bill that a deed to plaintiff was made in consideration of \$150 is not a sufficient allegation that plaintiff was a purchaser for a valuable consideration under the registry statute (Code 1904, § 2465); it being necessary to plead actual payment by plaintiff of the whole consideration.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 594.]

5. Vendor and Purchaser (§ 240*)—Pleading Insufficient to Allege Purchase without Notice of Unrecorded Deed.—Allegations in a bill, from which it might be deduced by calculation that the plaintiffs were of a very tender age when a deed to them was made, was not a sufficient allegation that they were purchasers without notice of a prior unrecorded deed under the registry statute (Code 1904, § 2465).

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 601.]

6. Pleading (§ 48*)—Necessity of Stating Facts Disclosing Rights.—When parties, whether infants or adults, seek the aid of courts to enforce their rights, it is essential that they should allege the facts disclosing what those rights are, as a court cannot base its decree on facts not alleged or put in issue by the pleadings.

[Ed. Note.—For other cases, see 11 Va.-W. Va. Enc. Dig. 217.]

Appeal from Circuit Court, Russell County.

Bill by Reed G. Blizzard and another against one Salyer and others. Decree for defendants, and plaintiffs appeal. Affirmed.

Joseph E. Duff, of Lebanon, for appellants.

W. W. Bird, of Lebanon, for the appellees.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.